



Montana Department of LABOR & INDUSTRY

JSEC Quarterly Newsletter

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Issue 18

June 2012

Employment Discrimination is against the Law

www.montanadiscrimination.com

Protected Classes:

Age (all ages)

Religion, Creed

Physical or Mental Disability

Marital Status

Race, Color, National Origin

Sex (including maternity, pregnancy, and sexual harassment)

Political Belief (state and local government employment or service)

The Human Rights Bureau strongly encourages all Montana employers to develop effective discrimination policies and grievance procedures. Effective policies and procedures will protect your employees from discrimination and may prevent liability for violations of state and federal anti-discrimination laws. For more information, visit www.montanadiscrimination.com

Pregnant Employees have these rights:

- * Nondiscrimination in hiring
- * Continued employment during pregnancy
- * Employer must provide reasonable accommodations as they would for any other employee with medical limitations
- * Reasonable maternity leave
- * No mandatory unreasonable leave
- * Use of accrued benefits and leave time
- * Equal treatment in employee benefits and plans
- * Reinstatement after maternity leave

What is reasonable maternity leave?

- * It is determined on a case-by-case basis. In the case of normal pregnancy and delivery, medical providers typically consider a reasonable leave to be six to eight weeks after delivery

JSEC Members

Sharon Nelson
Sidney Sugars

MaryAnn Vester
Dawson Community College

Fred Lake

Wade VanEvery
Sidney Chamber Office

Leslie Messer
Richland Economic Development

Lisa Aisenbrey/ Jeri Chapman
Sidney Health Center

Cheryl Van Every
Stockman Bank

Renee Goss
Sidney Public Library

Pam Wilcoxson / Colleen Topp/
Vernette Torgerson
Sidney Job Service

Loren Young
Richland County Commissioner

Craig Steinbeisser
VS Inc/ Beet Growers Association

Jeremy Norby
Norby Inc./Seitz Insurance

New Members Welcome!!



Employer Alert!

- ◆ Anyone who hires one or more persons is subject to the Montana Human Rights Act
- ◆ Questions on applications should be related to skills, experience, and education important to performing the job
- ◆ Avoid questions about an applicant's race, age, religion, medical condition, marital status, or family responsibilities
- ◆ To avoid claims of discrimination, apply standards equally to all employees

Employment Discrimination is Against the Law Continued

- * Rely on the judgment of the employee's physician or other medical provider
- * An employer is required to provide medically necessary maternity leave for the period of the employee's actual disability
- * An employer may require the employee provide medical verification

Reinstatement Following Maternity Leave

An employee who has signified her intent to return at the end of a reasonable leave of absence for maternity must be reinstated to her original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits and other service credits.

In 2007, the Montana Legislature passed legislation requiring public employers (all state and county governments, municipalities, school districts and the university system) to provide accommodations for breastfeeding mothers. **Although this legislation does not require private employers to provide these accommodations, it is advised.**

A pregnant employee may have additional protections under the federal Family Medical Leave Act. More information is available at www.dol.gov or call 1-866-487-9243.

Reasonable Accommodations:

Does not require an employer to:

- Tolerate or excuse poor performance
- Withhold disciplinary action warranted by the poor performance
- Raise a performance rating
- Alter a performance evaluation that does not reflect the employee's actual performance.

Unemployment Rates

Montana Unemployment Rate is at 6.2%; 2% below the national average.

Richland County has the 7th lowest unemployment rate at 2.9%. Fallon County has the lowest at 1.8% and Sanders County has the highest at 14.55%.

North Dakota continues to have the lowest unemployment rate in the United States at 3.0%. Montana is ranked 12th.

Williams County (Williston) is at 0.7%.



Aggressive Marketing Companies are Calling Montana's Small Businesses and Impersonating the Department of Labor and Industry.

Montana DLI is hearing from small businesses targeted by aggressive marketing companies who sell labor law posters claiming to be the state agency. "These aggressive marketing tactics are making it difficult and expensive for Montana business owners who are trying to follow the law," said Labor Commissioner Keith Kelly. "We want businesses to know that the Department does not and will not call demanding you purchase a Five in One poster. In fact, those posters are available at no cost."

- The Five in One posters, which are available from Job Service, encompass Equal Employment Opportunity, Family and Medical Leave Act with Military Family Leave (employers with 50 or more employees), Federal Minimum Wage, and the Polygraph Protection Act. Federal Regulations also require posting the Uniformed Services Employment and Reemployment Rights Act (USERRA). Montana State Law include: Proof of Workers' Compensation coverage, provided by Workers' Compensation Insurance carrier. Employers are **not** required to post the State minimum wage. Businesses that have returned the posters and are will getting invoices from the poster company can contact the Office of Consumer Protection at 1-800-481-6896 or the Better Business Bureau at 1-800-356-1007 or file a complaint online at www.bbb.org.

Homeowner's and Businesses Should be on the Lookout for Fly-By-Night Contractors-Casey Kyler-West

As construction season gets into full swing, the Montana Department of Labor and Industry wants to remind businesses and homeowners to use caution when choosing a contractor. "There are a lot of legitimate contractors out there, but it's the fly-by-nighters who come in get their money and leave without doing the work that can devastate a homeowner or business," said Labor Commissioner Keith Kelly. "We want to make sure that Montanans know if something sounds too good to be true, it probably is." Warning signs to watch out for include: the contractor will only accept payment in cash; is pressuring you into making a hasty decision, requiring you to pay in full up front, using high pressure sales tactics, arrives in an unmarked car or van, or refuses to give you a written estimate, contract or references.

Here are some tips that both homeowners and businesses can follow when choosing a contractor:

- * Verify the contractor is registered with the State of Montana
- * Check the State Construction Contractor Registration Unit to be sure that the contractor is in compliance
- * Find out if the contractor belongs to an industry association
- * Check for proper insurance (Liability, Workers' Compensation)
- * Call References; look at past projects
- * Have a contract detailing every aspect of the project including how and when paid
- * Communicate. Assure each of you have a complete understanding of expectations
- * Visually inspect each part of the project

For more information on hiring the right contractor or to find a list of local contractors in your area log onto www.mtcontractor.com or call 406-444-7734.



**If you or staff at your place of
business are interested in
participating in the
Sidney Job Service
Employers Committee, (JSEC)
Please contact Pam Wilcoxon at
433-1204
pwilcoxon2@mt.gov**

**If anyone you know would like to receive this
newsletter, please email us at
sidnevjs@mt.gov *
We will add them to the list.**

Is Your Job Application Legal??

What information do you want to capture about applicants with your company application? Skill level? Experience? Knowledge? To get what you want you have to learn to ask the right questions. Questions that are not job-related such as where a person was born, marital status, what kind of transportation a person uses, etc., give you absolutely no help in making the best hiring decision. If you ask these types of questions, you are setting yourself up for discrimination claims.

The key to appropriate employment inquiries is to ask only about those areas that will provide information about the person's ability to do the job, with reasonable accommodation. Do not assume that applications are legal because you bought them at a reputable store. You are responsible for the legality of your applications and keeping them updated as laws change. There are currently cases pending with the Montana Human Rights commission concerning discrimination and illegal applications. More and more applicants are asserting their rights...now is a good time to closely scrutinize your application!!

You can require additional materials be submitted with your application as appropriate such as:

Resumes, transcripts, licenses and certificates (or copies), and answers to supplemental questions.

Supplemental questions are inexpensive tools employers can use to screen large numbers of applicants quickly and consistently. Answers are screened against suggested responses. Applications without completed supplements can be eliminated. Recommendations for writing supplemental questions include the following:

- Limit to 3-5 questions for most jobs
- Limit responses to no more than 300 words
- Let applicants know if their written communication skills will be evaluated
- Avoid specific, in-house terminology or procedures in suggested responses

Montana is NOT a state where an employee works only "at the will" of the employer. Any statement to the effect that "employment may be terminated at any time, with or without cause" misstates Montana Law!



Sidney JSEC has two members that will be retiring this summer. Congratulations and Best Wishes to Sharon Nelson, Sidney Sugars and Renee Goss, Sidney Public Library. Sharon and Renee are currently our JSEC Treasurers. Lisa Aisenbrey has graciously accepted one of their positions, however that leaves one position still available. Please contact Sidney Job Service if you are interested in helping the committee!

HAPPY RETIREMENT

SIDNEY JOB SERVICE

211 N. Central Ave.

Sidney, MT 59270

Phone: 406-433-1204

Fax: 406-433-745.3

Email: sidneyjs@mt.gov

Website: sidneyjobs.mt.gov

Veteran Service Officer-Keith Olson 406-232-1203

Vocational Rehab-Rhonda Shumway- 1-877-296-1198

**Experience Works-Seeking individuals 55 and older that are
re-entering employment or needing to update skills**

Susan McDannel 406-234-1561

Job Corps-Audree Kilbey-PH-265-6743 X1118



**Montana Department of
LABOR & INDUSTRY**

The information provided herein is general in nature and intended as a guide only. It is not intended as a substitute for legal advice, to dictate policy, provide direction to your organization or to remove you from the responsibility or addressing your personnel issues. It is recommended that you seek independent legal advice from an appropriate professional to make sure that the general information provided applies to your

Veteran's Stand Down Event



**Third Annual Eastern Montana Veteran's Stand Down Event at the
Custer County Fairgrounds, Miles City, MT**

Saturday, August 11, 2012 9:00am—3:00 pm